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REMARKS

Regarding the status of the present application, Claim 42 has been amended in a very minor way to address the Examiner's informality issue, and Claims 1-43 are pending in this application. Reconsideration of this application is respectfully requested. It is respectfully submitted that the present amendment does not require further searching on the part of the Examiner, since the Claims have not been substantively amended. It is also respectfully submitted that the present amendment places this application in condition for allowance, or in any event, places it in better condition for consideration on appeal.

Claim 42 was objected to because of an informality noted by the Examiner. The Examiner is thanked for finding the error. Claim 42 has been amended in the manner suggested by the Examiner to correct the error. Withdrawal of the Examiner's objection to Claim 42 is respectfully requested.

Claims 36-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,239,700 issued to Hoffman et al. in view of US Patent No. 6,838,998 issued to Brown et al. The Examiner repeated the rejection made in the first Office Action. It is respectfully submitted that Claims 36-39 are not obvious in view of the Hoffman et al. and Brown et al. patents, taken singly or together. The arguments made in the prior response did not adequately address the difference between the cited references and the inventions recited in Claims 36-39. Consequently, an analysis of the Examiner's position and arguments that clearly support the allowability of Claims 36-39 are presented below.

The Examiner's position in the first Office Action is that the Hoffman et al. patent discloses that "1) the transmitter worn by the client that transmits status data is met by the remote alarm switch unit (40) which transmits a periodic status signal (see: column 9, lines 27-34); 2) the client tracking unit that comprises a wireless voice and data communication device, receiver, and GPS receiver is met by the portable signaling unit which includes (data to voice switch (114) in conjunction with cellular transmitter (110); radio receiver (116) which communicates with unit (40), and GPS receiver (100); 3) the monitoring center for receiving and storing status data and GPS data in a database is met by the central dispatch station(80) including computer system (90) including client database which receives status and GPS data from the portable signaling unit(see: column 12, lines 45-56; column 3, lines 24-42); 4) the wireless communication link is met by the cellular telephone system (70)."

The Examiner admitted that the Hoffman et al. patent does not disclose "1) the web server communicating with the database of the monitoring center" and "2) the wireless portable monitoring device comprising a wireless voice and data communication device and a web browser."

The Examiner cited the Brown et al. patent as disclosing that means for monitoring an individual including a web browser is well known. The Examiner stated, in part, that "Brown et al. (Brown) discloses a multi-user global position tracking system which utilizes the Internet (14) and web host B to monitor and track desired individuals via user terminal (17), column 7,

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lines 50 et seq). Since the use of user terminals for initiating tracking requests via a web server is well known as seen by Brown, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the user terminal (17) and Web host B of Brown into the system of Hoffman."

The Examiner's final argument is that "Furthermore, the examiner takes Official Notice, that in the mobile telephone art, use of mobile phones having Internet access is well known, and therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a mobile telephone into the user terminal (17) of Brown which would have been incorporated into the system of Hoffman, since this would have allowed mobility for the terminal, and not confined the terminal to a stationary position."

It is respectfully submitted that the teachings of the Hoffman et al. and Brown et al. patents cannot be combined to produce the presently claimed inventions absent using hindsight reconstruction and distorting and extending the teachings of the cited patents beyond their scope. The Examiner's position will be analyzed in detail below with regard to Claims 36-39.

Claim 36 calls for an electronic monitoring system for monitoring a client, comprising:

a transmitter that transmits status data regarding status of the transmitter;
a client tracking unit that comprises a GPS-enabled wireless voice and data communication device, and that is in communication with the transmitter;

a wireless communication link; and

a wireless portable monitoring device that comprises a wireless voice and data communication device, for communicating with the client tracking unit by way of the wireless communication link to remotely monitor the client.

It is respectfully submitted that the Hoffman et al. and Brown et al. patents, taken singly or together, do not disclose "a wireless portable monitoring device that comprises a wireless voice and data communication device, for communicating with the client tracking unit by way of the wireless communication link to remotely monitor the client" as is recited in Claim 36. The Examiner has admitted this.

The Examiner stated with regard to the Brown et al. patent that "Brown et al. (Brown) discloses a multi-user global position tracking system which utilizes the Internet (14) and web host B to monitor and track desired individuals via user terminal (17)." With regard to Claim 36, it is respectfully submitted that the Brown et al. user terminal (17) only communicates by way of the Internet (14) with the web host B. There is no disclosure or suggestion in the Brown et al. patent that the user terminal (17) communicates with the client by way of a client tracking unit. The invention recited in Claim 36 provides for direct communication between a monitoring individual and a client using the wireless portable monitoring device and client tracking unit. This communication capability is clearly not disclosed or suggested by the Brown et al. patent. Therefore, it is clear that neither the Hoffman et al. or Brown et al. patents, taken singly or together, disclose or suggest "a wireless portable monitoring device that comprises a wireless voice and data communication device, for communicating with the client tracking unit by way of the wireless communication link to remotely monitor the client" as is recited in Claim 36.

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The Examiner has asserted that Official Notice of the fact that "in the mobile telephone art, use of mobile phones having Internet access is well known, and therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a mobile telephone into the user terminal (17) of Brown which would have been incorporated into the system of Hoffman, since this would have allowed mobility for the terminal, and not confined the terminal to a stationary position."

As was stated by the Examiner, the Brown et al. patent discloses that the user terminal (17) communicates by way of the Internet (14) with the web host B. Substituting or adding a mobile phone to the user terminal (17) does not provide for a user terminal that can communicate directly with the client, based upon the teachings of the Brown et al. patent. There is no disclosure or suggestion in the Brown et al. patent that the user terminal can communicate directly with the client. The teachings of the Brown et al. patent only disclose that the user terminal communicates with the web host B via the Internet. Substituting or adding a mobile phone to the user terminal does not change this. Also, mobile phones do not normally communicate via the Internet. Therefore, since the Internet does not provide a mechanism for the mobile phone to communicate with the web host B, it is respectfully submitted that one skilled in the art would not add a mobile phone to the user terminal. Furthermore, adding a mobile phone to the user terminal and allowing it to communicate directly with the client tracking unit carried by the client improperly distorts and extends the teachings of the Brown et al. patent. The Brown et al. patent does not disclose or suggest this. This aspect is only disclosed in the present application.

It is also respectfully submitted that the attempt to use Official Notice as a basis for adding a wireless portable monitoring device to the fixed terminal disclosed in the Brown et al. patent, and then adding this structure to the Hoffman et al. system clearly amounts to hindsight reconstruction. Neither the Hoffman et al. nor Brown et al. patents, taken singly or together, disclose or suggest anything regarding the use of a wireless portable monitoring device for communicating with the client tracking unit to remotely monitor the client.

The Hoffman et al. and Brown et al. patents both teach the use of a fixed terminal or monitoring center. There is absolutely no teaching contained in either cited patent that would suggest extending the monitoring capabilities of these systems to provide for remote monitoring of a client using a wireless portable monitoring device. The fact that the Examiner has attempted to use Official Notice as a basis for adding a wireless portable monitoring device to the fixed implementations disclosed in the Hoffman et al. and Brown et al. patents is clearly indicative that there is no clear support in the cited references to incorporate the wireless portable monitoring device into the combined Hoffman et al. and Brown et al. system.

With regard to the Official Notice taken by the Examiner, the present invention specifically relates to the field of offender management systems, and not to the mobile telephone art. Claim 36 calls for an electronic monitoring system for monitoring a client, which is not, per se, a system that is in the mobile telephone art. Note that the present invention is in US Class

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340/539.130. The Hoffman et al. patent is in US Class 340/539.13 and none of the Classes listed in the "Current U.S. Class" listing cites US Class 340/539.130. The Brown et al. patent is in US Class 340/825.49. The Brown et al. patent cites Class 340/539.13 in its "Current U.S. Class" listing, but does not list US Class 340/539.130. It is respectfully submitted that this is supports the position that the Examiner is combining unrelated aspects using hindsight reconstruction in order to reject the present invention.

Furthermore, it is respectfully submitted that there must be some teaching contained in the cited references that would suggest that a wireless portable monitoring device may be used to allow remote monitoring of a client by their systems. It is clear that this is not the case. It is also clear that the Hoffman et al. and Brown et al. patents disclose systems that are limited to fixed monitoring terminals. Therefore, any assertion that they can be extended to incorporate a wireless portable monitoring device to allow remote client monitoring improperly extends the express teachings of the cited patents beyond their scope. This amounts to hindsight reconstruction.

With regard to Claim 36, it is respectfully submitted that the Hoffman et al. and Brown et al. patents, taken singly or together, do not disclose "a wireless portable monitoring device that comprises a wireless voice and data communication device, for communicating with the client tracking unit by way of the wireless communication link to remotely monitor the client" and certainly not without the use of hindsight reconstruction. Therefore, it is respectfully submitted that the Hoffman et al. and Brown et al. patents, taken singly or together, do not disclose or suggest the invention recited in Claim 36. Withdrawal of the Examiner's rejection and allowance of Claim 36 are respectfully requested.

With regard to Claim 37, and in view of the arguments made above with regard to Claim 36, it is respectfully submitted that the Hoffman et al. and Brown et al. patents, taken singly or together, do not disclose or suggest "a wireless portable monitoring device for communicating with the monitoring center by way of the wireless communication link to remotely monitor the client." The use of Official Notice to attempt to add a wireless portable monitoring device to the Hoffman et al. and Brown et al. systems requires extension of the teachings of the cited patents beyond their intended scope, by adding portable remote monitoring capabilities to systems that were never intended to have this capability. The Hoffman et al. and Brown et al. patents disclose fixed location monitoring systems. It is respectfully submitted that any assertion to the contrary amounts to hindsight reconstruction.

Furthermore, the Brown et al. patent discloses that the user terminal communicates with the web host B via the Internet. Substituting or adding a mobile phone to the user terminal does not change this. Mobile phones do not normally communicate via the Internet. Therefore, since the Internet does not provide a mechanism for the mobile phone to communicate with the web host B, it is respectfully submitted that one skilled in the art would not add a mobile phone to the user terminal. The Brown et al. patent also does not disclose or suggest that the user terminal can communicate wirelessly with the web host B. Consequently, substituting or adding

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a mobile phone to the user terminal does not allow it to communicate with the web host B, absent modifying the Brown et al. system in a manner not disclosed in the patent, which amounts to hindsight reconstruction.

Therefore, it is respectfully submitted that the Hoffman et al. and Brown et al. patents, taken singly or together, do not disclose or suggest the invention recited in Claim 37.

Withdrawal of the Examiner's rejection and allowance of Claim 37 are respectfully requested.

With regard to Claim 38, it is respectfully submitted that it is allowable based upon the allowability of Claim 37 from which it depends. Withdrawal of the Examiner's rejection and allowance of Claim 38 are respectfully requested.

With regard to Claim 39, it is respectfully submitted that the Hoffman et al. and Brown et al. patents, taken singly or together, do not disclose or suggest a method of electronically monitoring a client, comprising the steps of "providing a monitoring individual tasked with monitoring the client with a wireless portable voice and data communication device" and "communicating between the client tracking unit and wireless portable voice and data communication device to remotely monitor the client." The arguments presented above with respect to Claims 36 and 37 address the patentability of Claim 39.

In particular, the Hoffman et al. and Brown et al. patents, taken singly or together, do not disclose or suggest anything regarding remote monitoring of a client by a monitoring individual using a wireless portable voice and data communication device. Neither of the cited patents disclose or suggest direct communication between the monitoring individual and monitored individual using the respective devices that they carry. Both patents teach fixed location monitoring, either from a fixed monitoring center or a fixed terminal. Furthermore, the fixed terminal disclosed in the Brown et al. patent only communicates with the monitoring center.

Also, the Hoffman et al. and Brown et al. patents, taken singly or together, do not disclose or suggest anything regarding communicating between the client tracking unit and the wireless portable voice and data communication device to remotely monitor the client. Again, the Brown et al. patent discloses that the fixed terminal is only used to communicate with the monitoring center. The Hoffman et al. patent discloses nothing whatsoever regarding the use of a remote terminal, either fixed or mobile, and does not disclose communication using a wireless portable voice and data communication device to remotely monitor a client.

It is respectfully submitted that any assertion that the Hoffman et al. or Brown et al. patents disclose remote monitoring capabilities with a client using a wireless portable voice and data communication device requires hindsight reconstruction and improperly extends the teachings of the cited patents beyond their intended scope. Again, the fact that the Examiner has attempted to use Official Notice regarding the use of mobile phones in the mobile telephone art is evidence of this. The present invention relates to the field of offender management systems, not to the mobile telephone art.

Therefore, and in view of the above, it is respectfully submitted that the Hoffman et al. and Brown et al. patents, taken singly or together, do not disclose or suggest the invention

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recited in Claim 39. Withdrawal of the Examiner's rejection and allowance of Claim 39 are respectfully requested.

Dependent Claims 40 and 41 are considered allowable based upon the allowability of Claim 39. Allowance of Claims 40 and 41 are respectfully requested.

Claims 1-35, 42 and 43 were allowed. The finding of allowable subject matter in this application is appreciated.

Claims 40 and 41 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Claims 40 and 41 have not been placed in independent form pending the Examiner's consideration of the above arguments relating to the allowability of Claim 39.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure to the extent indicated by the Examiner.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Reconsideration and allowance thereof are earnestly solicited.

Respectfully submitted,



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